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INTELLECTUAL PROPERTY LAW
SAN JOSE CA 95120-6099

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OFFICE OF PETITIONS

In re Application of :
Gary Thomas Axberg et al. :
Application No. 09/972,310 : DECISION ON PETITION UNDER
Filing Date: October 5, 2001 : 37 C.F.R. §1.10(c)
Attorney Docket No. SJ09-2001- :
0108 :
Title: STORAGE AREA NETWORK :
METHODS AND APPARATUS WITH :
EVENT NOTIFICATION CONFLICT :
RESOLUTION :

This is a decision on the petition under 37 C.F.R. §1.10(c),
filed September 26, 2005, requesting the according of a filing
date of October 5, 2001 to application number 09/972,310.

The Office regrets the delay in issuing this decision.

The application was deposited on October 5, 2001. Shortly
thereafter, the Office mailed a filing receipt, indicating that
application number 09/972,310 had been accorded a filing date of
October 4, 2001.

With the present petition, Petitioner has included a copy of the
Express Mail label number EL835825606US¹.

Petitioner has alleged that the application was deposited on
October 5, 2001, and the Patent Office has incorrectly assigned a
filing date of October 4, 2001 to the present application.

¹ The Provisional Application for Patent cover sheet has been located in the
electronic file, and it is noted that it contains this same Express Mail
label number.

Petitioner has included a copy of the Express Mail label, and it is noted that it bears a "date-in" of October 5, 2001.


A check of the Office's USPS Express Mail Finder Database computer program was inconclusive. A check of the United States Postal Service's website (<http://www.usps.com/shipping/trackandconfirm.htm>) was equally inconclusive.

Although the application received a filing date of October 4, 2001, the evidence is convincing that the application papers were filed on October 5, 2001, and the Patent Office assigned the incorrect date to the application. Therefore, the application was entitled to a filing date of October 5, 2001.

Accordingly, the petition is **GRANTED**.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 5, 2001, as well as the mailing of a corrected filing receipt.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.


Paul Shanowski
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Office of Patents
United States Patent and Trademark Office